

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

SECURITIES AND EXCHANGE COMMISSION)

Plaintiff,)

v.)

TODD ELLIOTT HITT,)
KIDDAR CAPITAL LLC, and)
KIDDAR GROUP HOLDINGS, INC.,)

Defendants,)

CIVIL NO. 1:18-cv-01262

and)

KIDDAR HERNDON STATION LLC,)
KIDDAR HOMEBUILDING FUND I LLC,)
MELBOURNE RETREAT LLC,)
KIDDAR MASS AVE LLC,)
KIDDAR RIDGEVIEW LLC,)
ESA EMERSON LLC,)
ESA HIGHWOOD LLC, and)
KIDDAR AQ LLC a/k/a KIDDAR AQUICORE LLC,)

Relief Defendants.)

**PLAINTIFF'S UNOPPOSED EMERGENCY MOTION
FOR APPOINTMENT OF RECEIVER**

Hearing Waived

Plaintiff Securities and Exchange Commission moves for an Order appointing a permanent receiver over Defendants Kiddar Capital LLC and Kiddar Group Holdings, Inc. and Relief Defendants Kiddar Homebuilding Fund I LLC; Melbourne Retreat LLC; Kiddar Mass Ave LLC; Kiddar Ridgeview LLC; ESA Emerson LLC; ESA Highwood LLC; and Kiddar AQ LLC a/k/a Kiddar Aquicore LLC (collectively, the "Receivership Defendants").

As discussed below, Defendant Todd Elliott Hitt (“Hitt”) is the control person for each of the Receivership Defendants, and he has consented to the receivership on their behalf. The receiver will have full and exclusive power, duty, and authority to: administer and manage the business affairs, funds, assets, choses in action and any other property of the Receivership Defendants; marshal and safeguard all of their assets; and take whatever actions are necessary for the protection of investors.

As grounds for this Motion, the SEC relies on the Complaint and the Consents executed by Hitt on behalf of himself and the Receivership Defendants, all of which are being filed contemporaneously herewith. The SEC respectfully requests imposition of the receivership as soon as possible given the risk of asset dissipation and loss as described in the Complaint.

The SEC’s staff has solicited expressions of interest from three potential receivers it believes are well-suited to handle this matter, and attaches the credentials of these candidates as Exhibits A, B, and C to this motion. After consideration, the staff believes the interests of investors would best be served by appointing Bruce H. Matson, whose credentials are attached as Exhibit A, to serve as receiver. Mr. Matson is a member of the law firm of LeClairRyan in Richmond, Virginia, and is well-suited to serve as the receiver because of his impeccable qualifications and willingness to serve at a reasonable rate.

Mr. Matson’s nearly 35-year legal career has spanned the areas of, among others, receiverships, bankruptcy, debtor/creditor relations, business workouts, and trustee matters. He has served as both a professional receiver and as counsel to receivers throughout her career. His law firm, LeClairRyan, has had a diversified civil practice for over 30 years, including corporate and business law, financial services, commercial real estate and litigation. Accordingly, Mr. Matson is

well qualified and equipped to handle being appointed receiver in an effort to track down assets and administer and manage Receivership Defendants.

If appointed as receiver, Mr. Matson intends to have significant involvement in all tasks required to efficiently resolve the issues related to this matter. He also has agreed to a rate of \$300 per hour for himself and to discounted rates for his colleagues. And he has further agreed to cap all compensation to 30% of the net value of the receivership assets.

Finally, Mr. Matson has informed us that both he and the firm have no conflict of interest in this matter, and he is ready, willing, and able to serve as receiver. Indeed, he is currently coordinating with the Commission staff on this matter so that, if and once appointed, he can immediately proceed to discharge his duties.

Therefore, the SEC recommends Bruce H. Matson, who has the capability and experience necessary for carrying out the tasks that will be required of the receiver and has indicated a willingness to serve in that capacity. As the SEC indicated previously, it sought expressions of interest to serve from the additional candidates who also are well qualified to serve as receivers and, with their respective firms, also have agreed to reasonable fees. Accordingly, if the Court does not agree with the SEC's recommendation, we suggest the Court consider either of the two alternative candidates, Folashade Abiola-Banjac of CliftonLarsonAllen, or A. Cotten Wright of Grier, Furr & Crisp, whose credentials are attached as Exhibits B and C respectively.

A proposed Receivership Order is being submitted herewith for the Court's review and consideration. Because this Motion is unopposed, a hearing is waived.

DATED: October 5, 2018

Respectfully submitted,

SECURITIES AND EXCHANGE COMMISSION

By: /s/ Nicholas C. Margida
Nicholas C. Margida (VSB No. 73176)
Sarah Hall (VSB No. 71084)

Securities and Exchange Commission
100 F Street NE
Washington, DC 20549
Telephone: (202) 551-8504 (Margida)
Fax: (202) 772-9282
Email: margidan@sec.gov
halls@sec.gov

Attorneys for Plaintiff

Of Counsel:

Patrick R. Costello (application for admission *pro hac vice* filed concurrently)
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

CERTIFICATE OF SERVICE

I certify that on October 5, 2018, I caused to be served the foregoing PLAINTIFF'S UNOPPOSED EMERGENCY MOTION FOR APPOINTMENT OF RECEIVER either by (i) using the CM/ECF system, which will send notification of such filing to counsel for Defendants at the following addresses; or (ii) sending via electronic mail to those counsel not yet registered on the CM/ECF system at the following addresses:

David Schertler
Danny C. Onorato
Hilary Holt LoCicero
Schertler & Onorato, LLP
901 New York Avenue, N.W., Suite 500
Washington, DC 20001
Dschertler@schertlerlaw.com
Donorato@schertlerlaw.com
HLoCicero@schertlerlaw.com

Counsel for Defendants and for Relief Defendants Kiddar Homebuilding Fund I LLC; Melbourne Retreat LLC; Kiddar Mass Ave LLC; Kiddar Ridgeview LLC; ESA Emerson LLC; ESA Highwood LLC; and Kiddar AQ LLC a/k/a Kiddar Aquicore LLC

Counsel for Defendant Todd Elliott Hitt in his capacity as registered agent for Relief Defendant Kiddar Herndon Station LLC

/s/ Nicholas C. Margida
Nicholas C. Margida